



**PLANNING DIVISION  
STAFF REPORT**

**Board of Adjustment**

**July 17, 2019**

CASE No.: <b>BOA19-00342</b>	CASE NAME: <b>614 N. Orange</b>
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Owner's Name:	Bradley and Julie Anderson
Applicant's Name:	Bradley and Julie Anderson
Location of Request:	614 N. Orange
Parcel Nos:	135-24-023 and 135-24-024
Nature of Request:	A variance from the required minimum side yards to allow for an addition to the existing home
Zone District:	Single Residence (RS-9)
Council District:	1
Site size:	.27± acres
Existing use:	Single residence
Hearing date(s):	<b>July 17, 2019 / 5:30 p.m.</b>
Staff Planner:	Evan Balmer, AICP
Staff Recommendation:	APPROVAL with 2 Conditions

**HISTORY**

On **December 6, 1948**, the City Council approved the annexation of 2,419± acres into the City of Mesa (ORD #228). The subject part was included as part of this larger annexation.

**PROJECT DESCRIPTION**

**Background**

This request is for a variance from the required minimum side yards, to allow an expansion to an existing single residence home in the RS-9 district. Per Section 11-5-3 of the Mesa Zoning Ordinance, the minimum interior side yard setback in the RS-9 district is 7' and the minimum aggregate of the two sides is 17'. The existing home was built in 1949 and a carport was added to the south side of the home in the mid-1970s. A garage door was subsequently added to create an open garage which allows the homeowners to drive through the garage to a detached carport located behind the home. The existing garage is setback three feet (3 ft) and the detached carport

is setback four feet two inches (4'2") from the southern property line of the house. The 3 ft garage setback does not conform to the City's current minimum requirement for the RS-9 zoning designation. However, the setback was in conformance with the City's Zoning Ordinance when the building was constructed, a legal conforming site. Per Section 11-5-3 of the City's Current Zoning Ordinance, the minimum required interior side yard setback for each side of the property is seven feet (7 ft), with an overall aggregate of 17 feet. Overall, the existing side setbacks of the house conforms to the required aggregate setback of 17 feet. Currently, the aggregate setback of the two interior side is 21 feet (21'4" ft).

The purpose of the subject request is to allow the property owner to construct an addition to the north side of the existing house to increase the livable area of the home. From the site plan submitted with the application, the proposed addition will be setback approximately 8'4" from the northern property line. This proposed setback exceeds the required 7' minimum side yard setback; however, the proposed addition would reduce the aggregate setback from 21'4" to 11'4", which would no longer meet the required 17' aggregate side yard setback requirement on property.

#### **General Plan Character Area Designation and Goals**

The Mesa 2040 General Plan character area designation on the property is Neighborhood. Per Chapter Seven of the General Plan, the primary focus of the Neighborhood character type is to provide safe places for people to live where they can feel secure and enjoy their surrounding community. The applicant's proposal is consistent with the General Plan.

#### **Site Characteristics**

The subject property is located north of University Drive and west of Country Club Drive. The subdivision plat for the subject property was approved in 1948. A majority of the homes in the subdivision were constructed in the 1940s and 1950s. There are several unique site characteristics associated with properties in the Subdivision that are not common in other parts of the City due to the age of the Subdivision. Several of the lots have buildings constructed over lot lines, including the subject property. This is as a result of several lot line adjustments in the subdivision. Additionally, many of the homes in the surrounding area are non-conforming to current setback requirements as a majority of the homes were constructed under the City's Zoning Ordinance in 1949. The City's Zoning Ordinance required smaller side yard setbacks than what is required currently required.

#### **Surrounding Zoning Designations and Existing Use Activity:**

<b>Northwest RS-9 Developed Residential</b>	<b>North RS-9 Developed Residential</b>	<b>Northeast RS-9 Developed Residential</b>
<b>West RS-9 Developed Residential</b>	<b>Subject Property RS-9 Developed Residential</b>	<b>East RS-9 Developed Residential</b>
<b>Southwest RS-9 Developed Residential</b>	<b>South RS-9 Developed Residential</b>	<b>Southeast RS-9 Developed Residential</b>

## **Mesa Zoning Ordinance Requirements and Regulations:**

Per Section 11-80-3 of the City of Mesa Zoning Ordinance, the Board of Adjustment shall find upon sufficient evidence when making a decision on variances that:

1. There are special circumstances applicable to the property, including its size, shape, topography, location, or surrounding;

***There are special circumstances on the subject property, as well as many of the other properties in the neighborhood, that are not found in other areas of Mesa. The subdivision was platted 71 years ago and developed around the same time. As a result of lot splits and replats over the years, several of the homes in the area, including the subject property, are constructed on multiple parcels. Additionally, the City's Zoning Ordinance requirements have changed over the years since this neighborhood was constructed and many of the homes in the neighborhood do not meet current setback requirements.***

2. That such special circumstances are pre-existing, and not created by the property owner or appellant;

***The special circumstances on this property are a result of the age of the neighborhood and the Zoning Ordinance requirements that were in place at the time of development. The required setback in 1949 was seven feet for side setback and 3' for open carports. The City's current Zoning Ordinance no longer allows a 3' side setback for carports or garages, which makes the existing home a legal non-conforming structure. The current property owner would like to build an addition on the home, which will maintain the 7' side setback currently required by the Zoning Ordinance, but due to the legal non-conforming 3' setback for the garage, the property owner is unable to meet the current 17' aggregate side setback standard.***

3. The strict application of the Zoning Ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district

***Many of the homes in this area do not meet the current side yard setback requirements due to the standards in place at the time these properties developed. The non-conforming garage on the property was in compliance with the development standards in place at the time it was constructed, and the current addition being proposed by the applicant meets the minimum 7' required side yard setback of the RS-9 district.***

4. Any variance granted will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

***The granting of the requested variance will not grant special privileges to the subject property that are inconsistent with other properties in the area. Many of the homes in this area do not meet the current setback requirements found in Section 11-5-3 of the MZO. The property owner is proposing an addition to the north side of the home that meets the minimum side***

***setback currently required by the Zoning Ordinance, but due to the legal non-conforming 3' setback to the garage on the south side of the house, the property owner is unable to meet the 17' aggregate side setback requirement.***

#### Findings

- A. The subject house was constructed in 1949 with a garage addition constructed in the mid-1970's is a legal non-conforming structure.
- B. The special circumstances on this property are pre-existing and the result of decreased side setbacks standards of the Zoning Ordinance in place at the time the property developed.
- C. The strict application of the Zoning Ordinance would deprive the property owner of privileges enjoyed by other properties in the neighborhood. Many of the surrounding properties also have reduced side yard setbacks due to the standards in place at the time the neighborhood developed.
- D. Approval of the variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity of the subject property. The current garage is a legal non-conforming structure and the property owner's proposed addition will meet the current minimum required side yard setback.

#### **Neighborhood Participation Plan and Public Comments**

The applicant sent the required notification letters to all property owners within 150' of the site. As of writing this report, staff has not been contacted by any resident to express support or opposition to the request.

#### **Staff Recommendations:**

Based on the application and the criteria for approving a variance outlined in Section 11-80 of the MZO, Staff recommends approval of the request with 4 conditions:

#### **Conditions of Approval;**

- 1. Compliance with the site plan as submitted
- 2. Compliance with all City development codes and regulations.